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No. -

In the Supreme Court

OF THE

United States

SERGIUS BRYNER and FRANCIS BRYNER, et al.
Petitioners,

VS.

SECURITY PACIFIC NATIONAL BANK, COMMERCIAL BANK OF SAN FRANCISCO, CAPITAL RESERVE LEASING CORPORATION, C.I.T. CORPORATION, and LEASCO CAPITAL EQUIPMENT CORPORATION,
Respondents.

APPENDIX TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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EXCERPT FROM PETITIONER'S OPENING BRIEF ON APPEAL TO NINTH CIRCUIT

STATEMENT OF ISSUES PRESENTED FOR APPEAL

1. Whether the evidence establishes as a matter of law that the appellee banks violated Section 12(1) of the Securities Act of 1933 and whether there is substantial evidence to support verdicts in favor of appellee banks on the 12(1) issues.

2. Whether the evidence establishes as a matter of law that appellee banks violated the National Bank Act (Glass-Steagall) [12 U.S.C. §§ 24, 378].

3. Whether appellee Security Pacific National Bank suppressed, destroyed and altered the character of critical evidence in order to enforce its promissory note counterclaims and escape liability for

securities law violations and for fraud.

4. Whether there is substantial evidence to support the verdicts favoring the appellee leasing companies (C.I.T., Leasco and Capital Reserve) on their counterclaims for balances on equipment leases.

5. Whether it was reversible error to place the burden of proving non-performance of the leasing company contracts on the lessees.

6. Whether the Rule 10b-5 jury instructions constitute reversible error.

7. Whether the verdicts were coerced by supplemental jury instructions which are contrary to the law of this circuit.

8. Whether the jury verdicts favoring the banks and leasing companies were unanimous.

9. Whether it was error to refuse a post-trial evidentiary hearing on the issue of juror unanimity.

10. Whether it was prejudicial error

to provide the jury a copy of the 20,000-page trial transcript, including all stricken material, for its unsupervised use in the course of deliberations.

11. Whether appellants were afforded due process of law in the assessment of $2 million attorneys' fees and nonstatutory costs without a hearing.

12. Whether attorneys' fees and non-statutory costs were awarded in accord with relevant principles of contract law, whether interest was properly computed, and whether a double recovery has been sanctioned.

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSEPH L. POTSTADA, et al., Plaintiffs/ Appellants, vs. RICHARD D. FREEMAN, et al., Defendants/ Appellees.	CA Nos. 81-4515 81-4516 81-4517 81-4518 81-4552 81-4600
RANDOL PURVIANCE, et al., Cross-Claimants/ Appellees, vs. SECURITY PACIFIC NATIONAL BANK, a National Banking Association, Cross-Defendant/ Appellant.	MEMORANDUM*

Appeal from the United States District Court for the Northern District of California Samuel Conti, District Judge, Presiding
Argued and submitted August 8, 1983

Before: WALLACE, SNEED, and FARRIS, Circuit Judges

Joseph L. Potstada and Loretta Potstada,

husband and wife, et al., investors in a fraudulent tax shelter scheme brought action against the promoters of the fraud, the banks that financed the investments and the leasing companies that financed the purchase of certain drilling equipment. In response to the investors' claims, the banks and leasing companies counterclaimed to collect unpaid balances on promissory notes and equipment leases. The district court directed a verdict against the promoters. The jury found for the leasing companies and ruled in favor of the banks on all issues except one: it found that the banks had breached a fiduciary duty to several plaintiffs. The district court denied all motions for judgment notwithstanding the verdict and new trial, and awarded costs and attorneys' fees to the banks and the leasing companies. The several appeals of the parties are consolidated in this action.

FACTS

There is no question that a scheme was utilized to enable an investor to obtain tax credit with almost no out-of-pocket investment. The tax shelter investments which the promoters marketed were "working interests" in Texas oil or gas leases. The investor generally obtained unsecured loans from a bank to provide the funds needed for improvements to the lease, and then deducted the amount invested as an intangible drilling expense. Potential investors, who sought financing (and almost all investors did) were referred by the promoters to the defendant banks.

The leasing companies were financing alternatives to the banks and were used to finance the acquisition of the equipment needed to rework the oil and gas leases. Based on the plaintiffs' credit applications, the leasing companies executed an

equipment lease. In accordance with the lease, the leasing companies paid the equipment supplier after receiving the plaintiffs' signed acknowledgments that the equipment had been delivered.

LEGAL ANALYSIS

I. Should the Jury Finding that the Banks Did Not Violate Section 12(1) of the Securities Act of 1933, 15 U.S.C. §77 l(1) be Overturned on the Grounds that there was Insufficient Supporting Evidence or on the Grounds that the Bank Should be Held to Have Violated Section 12(1) as a Matter of Law?

Plaintiffs appeal the jury verdict that the bank did not violate Section 12(1) of the Securities Act of 1933, 15 U.S.C. §77 l(1), which prohibits offering or selling a security in violation of Section 77e. They contend that there was insufficient evidence to support the jury's verdict in favor of the bank, that the jury verdict should be overturned and that the banks should be found to have sold unregistered securities as a matter of

law.

The determination of a motion for judgment notwithstanding the verdict or for a new trial on the ground that the jury verdict is not supported by substantial evidence is left to the sound discretion of the trial court. Raynor Bros. v. American Cyanamid Co., 695 F.2d 382, 385 (9th Cir. 1982). The standard for appellate review is whether, viewing all of the evidence in the light most favorable to the prevailing party, there is substantial evidence to support the jury's verdict. Id.; Angle v. Sky Chef,, Inc., 535 F.2d 492, 494 (9th Cir. 1976); Beverage Distributors, Inc. v. Olympia Brewing Co., 440 F.2d 21, 24-25 (9th Cir. 1971), cert. denied, 403 U.S. 906 (1971). We have reviewed the record. While a contrary verdict would also be supported by the record, the jury's verdict is reasonable in light of the evidence.

The jury was instructed on both the "risk capital" and the "participant liability" theories of liability under Section 12(1), and found against the plaintiffs. There is no objection to these instructions. Under the risk capital doctrine, a loan transaction may be characterized as a sale of securities when the loaning party has a substantial risk of loss and is effectively financing the "entrepreneurial or managerial efforts" of others. Amfac Mortgage Corp. v. Arizona Mall of Tempe, 583 F.2d 426, 433 (9th Cir. 1978); Great Western Bank & Trust v. Kotz, 532 F.2d 1252, 1257 (9th Cir. 1976). Even assuming that the risk capital analysis applies to the facts here, the record demonstrates ample evidence from which a reasonable jury could find that the bank's promissory notes did not constitute securities under the "risk capital" test established in Great Western Bank, supra,

532 F.2d at 1257-58.

Under the theory of participant liability set forth in Securities and Exchange Commission v. Murphy, 626 F.2d 633, 650 (9th Cir. 1980), a defendant who did not actually sell securities will be considered a "seller" if the defendant's acts were both necessary to and a substantial factor in the sales transaction. The theory of participant liability has generally been applied to people who were closely connected with the solicitation of securities--persons who design the sale scheme, or actively promote the sale. Thus in both Murphy, supra and in Hill York Corp. v. American Internat'l Franchises, Inc., 448 F.2d 680 (5th Cir. 1971), persons who had devised the scheme to sell securities unlawfully, and were the motivating force behind the sales transactions were held to be "sellers" within the meaning of Section 12(1). Brokers and attorneys have been held liable

as "sellers" under Section 12(1) because of their solicitation activities. See Lewis v. Walston & Co., Inc., 487 F.2d 617 (5th Cir. 1973); Wasson v. Securities and Exchange Commission, 558 F.2d 879 (8th Cir. 1977); Junker v. Crory, 650 F.2d 1349 (5th Cir. 1981). No court has ever found a bank to be a "seller" within the meaning of Section 12(1). See Wright v. Schock, CCH Fed. Sec. L. Rep. ¶99,411 (N.D. Cal. 1983); Jefferies & Co. v. United Missouri Bank, CCH Fed. Sec. L. Rep. ¶99,257 (W.D. Mo. 1983).

We recognize that a bank can upon proper facts be liable as a "seller," but here the record permits a reasonable jury to find that the banks were not a necessary or substantial factor in the tax shelter scheme. While bank services were necessary to the sales transactions, these particular banks were not "necessary" since any other banks could have provided

the loan services that would have facilitated the sale transactions. See Nicewarner v. Bleavins, 244 F.Supp. 2671, (D. Colo. 1965). See also Wright, supra.

Further, the banks introduced sufficient evidence for a reasonable jury to find that the banks were not a substantial factor in bringing about the sale. The record reflects testimony that the banks did not solicit investors; promote the investment scheme; have any direct financial interest in the DMS venture or any control over DMS's policies; that the banks acted as ordinary commercial lenders and loaned on the basis of borrowers' personal credit; and that the investors were already persuaded to invest in the scheme before they sought the loans.

We reject the argument that the banks should be held liable under Section 12(1) as a matter of law. There were material factual disputes about whether the banks

were a necessary and substantial factor in the sales transaction. The record justifies submission of the issues to a jury. The jury finding that the banks did not violate Section 12(1) is based on evidence in the record. We affirm the denial of the motion for judgment notwithstanding the verdict and for a new trial.

II. Did the District Court Err By Directing a Verdict Against the Plaintiffs' Affirmative Defenses Under the National Bank Act, 12 U.S.C. §§24,378?

Plaintiffs seek reversal of the directed verdict favoring the bank on the plaintiffs' claims under the National Bank aCt. A directed verdict is proper and will be upheld if "the evidence permits only one reasonable conclusion as to the verdict." Shakey's, Inc. v. Covalt, 704 F.2d 426, 430 (9th Cir. 1983); Cal. Computer Products v. Internat'l Business Machines Corp., 613 F.2d 727, 733-34 (9th Cir. 1979).

Plaintiffs' affirmative defenses to the banks' claims for unpaid balances are based on Section 16 of the Glass-Steagall Act, which prohibits national banks from trading in securities for their own account or underwriting any issue of securities, and on Section 21 of the Act, which forbids any company "engaged in the business of issuing, underwriting, selling or distributing" securities to engage at the same time in the business of banking. See 12 U.S.C. §§24,378(a)(1). Plaintiffs argue that the banks' promissory notes should not be enforced because they facilitated the unlawful sale of unregistered securities, and thus constitute illegal contracts.

Even if the loan transactions violated the National Bank Act, plaintiffs do not have standing to assert the National Bank Act as an affirmative defense to the banks' collection of amounts due on the promissory

notes. Individuals do not have a private right of action against banks based on the Act. Russell v. Continental Ill. Nat. Bank & T. Co. of Chicago, 479 F.2d 131, 134 (7th Cir.), cert. denied, 414 U.S. 1040 (1973); Golar v. Daniels & Bell, Inc., 533 F.Supp. 1021, 1026 (S.D.N.Y. 1982); Stein v. Galitz, 478 F.Supp. 517, 520-21 (N.D.Ill. 1978). Enforcement of the Act is left to the United States because investors are not members of "the class for whose especial benefit the statute was enacted." Russell, supra, 479 F.2d at 134.

Courts have refused to allow borrowers to assert violations of the Act as a defense to banks' enforcement of contractual claims for the same policy reasons that courts have prohibited a private right of action against banks. Thompson v. St. Nicholas Nat'l Bank, 146 U.S. 240, 250-51 (1892); Union Nat. Bank of St. Louis v. Matthews,

98 U.S. 621, 629 (1879); Federal Deposit Ins. Corp. v. Freudenfeld, 492 F.Supp. 763 (E.D.Wis. 19809). Both Matthews and Thompson strongly disapproved of private investors' affirmative defenses under the Act. Freudenfeld, supra, followed the rationale in Thompson and explicitly held that a party could not defend against a bank's contractual claim on the grounds that the bank's contract violates the National Bank Act. "Since only the federal government can challenge the actions of American, defendant Freudenfeld will not be permitted to challenge the banks' actions." Freudenfeld, supra, 492 F.Supp. at 768. We affirm the directed verdict.

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IV.(Sic) Should the Jury Verdict in Favor of the Leasing Companies Be Overturned on the Grounds that There is Insufficient Evidence to Support the Verdict?

The plaintiffs assert that a judgment notwithstanding the verdict should be entered against the leasing companies because the verdict in favor of the leasing companies on their counterclaims for unpaid balances is without the support of substantial evidence. Plaintiffs contest both the finding that the leasing companies were not agents of DMS and the finding that there was no failure of consideration. Our review of jury findings is limited to determining whether there is any substantial evidence that will support those findings. More v. Telfon Communications Corp., 589 F.2d 959, 964 (9th Cir. 1978).

1. Agency

Plaintiffs contend that DMS routinely obtained the investors' signatures upon delivery receipts, knowing that the customer was absent and that equipment had not been delivered to the site. These actions, according to the plaintiffs, make DMS an agent of the leasing companies, and as an agent, DMS's knowledge that there was no delivery is imputed to the leasing companies. The determination of whether there is an agency relationship is generally a question for the trier of fact. Dogherra Safeway Stores, Inc., 679 F.2d 1293, 1295 (9th Cir.), cert.denied, 103 S.Ct. 346 (1982). The jury was thoroughly instructed on the plaintiffs agency theory, and returned a special verdict finding that DMS was not an agent of the leasing companies. There were no objections to these jury instructions. The agency issue was fully litigated. There is substantial evidence to support

the jury findings.

2. Failure of Consideration

Plaintiffs contend that the leased equipment was never delivered, and that this constitutes a failure of consideration which releases them from liability for the unpaid balances. The jury was properly instructed in accordance with California law that in order to recover on the contract, the leasing companies had to allege and prove performance. See Cal.Civ.Code §1439; Wal-Noon Corp. v. Hill, 45 Cal.App.3d 605, 612, 119 Cal.Rptr. 646, 650 (1975); Sosin v. Richardson, 210 Cal.App.2d 258, 26 Cal.Rptr. 610, 613 (1962). Delivery of the leased equipment was a condition of performance because a California statute provides that: "One who leases personal property must deliver it to the lessee." Cal.Civ.Code §1955. The district court informed the jury that this provision was to be construed as part

of each equipment lease contract.

The delivery and acceptance receipts that were signed by the plaintiffs acknowledging that the equipment had been delivered constitute sufficient evidence of delivery to support the jury's verdict in favor of the leasing companies. Investors had the opportunity to verify the delivery of the equipment. Even if they failed to verify delivery prior to signing the receipt, they affirmatively represented to the leasing companies that the equipment had been received. In so doing they knew that the leasing companies would then pay for the equipment. There is no basis to disturb the jury finding on appeal.

IV Does Placing the Burden of Proving Nonperformance of the Leasing Contracts on the Plaintiffs Constitute Reversible Error?

Plaintiffs contend that the burden of proving delivery of the equipment was

improperly transferred from the leasing companies to the plaintiffs. Their claim is based upon the jury instruction which states that the leasing companies are entitled to the balances due unless the plaintiffs establish failure of consideration by a preponderance of the evidence. The leasing companies claim that this instruction is in accordance with Cal.Civ.Code §1614. Section 1614 provides that a party seeking to invalidate a written agreement has the burden of proving lack of consideration. The jury instruction improperly shifted the burden of proof, but the error was harmless.

The leasing companies confuse the defense of lack of consideration with a defense of failure of consideration. Whereas "lack" or "want" of consideration means that a party made a promise without receiving any corresponding benefit, "failure" of consideration means that a party has

materially failed to perform its contractual obligation. See 1 Corbin on Contracts §133 (1963).

The burden of proving failure of consideration was improperly allocated to the plaintiffs. The party seeking to enforce the contracts has the burden of pleading and proving that he or she has performed all of the conditions and agreements of the contract. Hetherington v. Hartford Fire Insurance Co., 93 Cal.App.3d 383, 156 Cal.Rptr. 116, 118 (1979); Acoustics, Inc. v. Trepte Construction Co., 14 Cal.App.3d 887, 913, 92 Cal.Rptr. 723, 740-41 (1971); Sosin v. Richardson, 210 Cal.App.2d 258, 26 Cal.Rptr. 610 (1963).

We review jury instructions in their entirety to determine if "the jury was misled in any way and whether it had [an] understanding of the issues and its duty to determine those issues." Van Cleef v. Aeroflex Corp., 657 F.2d 1094, 1099 (9th

Cir. 1981); Marquis v. Chrysler Corp., 577 F.2d 624, 636 (9th Cir. 1978). e are convinced after reviewing all of the instructions and the evidence presented at trial that the erroneous instructions are harmless beyond a doubt. Another jury instruction correctly states that the leasing companies have the burden of proving delivery. Furthermore, the evidence of delivery consisted of plaintiffs' own acknowledgments of delivery.

V. Do the District Court's Instructions on the 10b-5 Issue Constitute Reversible Error?

Plaintiffs claim that one of the 10b-5 instructions was erroneous because it burdened them with proving that they would have acted differently had they been aware of omitted facts. This instruction did not improperly shift the burden of proof. While a plaintiff's reliance on omitted facts is presumed from proof of the omission of material facts--see

Affiliate Ute Citizens v. United States, 406 U.S. 128, 153-54 (1972)--this presumption can be rebutted. See Bell v. Cameron Meadows Land Co., 669 F.2d 1278, 1284 n.11 (9th Cir. 1982). The instruction does not explicitly shift the burden of proof to plaintiffs. It merely instructs the jury not to find liability under Rule 10b-5 if they find that plaintiffs did not rely on omissions. This case is thus distinguishable from Kramas v. Security Gas & Oil, Inc., 672 F.2d 766, 769 n.1 (9th Cir.), cert. denied, 103 S.Ct. 444 (1982).

VI. Was there Error in the Jury Verdicts that Requires Reversal?

Plaintiffs claim that a new trial should be granted on the grounds that the jury was coerced and the verdict was not unanimous. Plaintiffs' coercion claims are based on the trial judge's questioning and his instructions to the jury. After eight days of deliberations, the jury

informed the court that they could not agree on a number of significant issues. Although the judge did not directly ask for the numerical division, his question elicited the numerical division of the jury. The trial judge then remarked on the length of the trial and the jury fee expenses, and read a "modified Allen charge." The trial judge later instructed the jury, among other things, to "listen carefully to the opinion of others...and try to come up with a verdict which of course must be unanimous." There was no coercion or lack of unanimity.

The issue of jury coercion is raised for the first time on appeal. The plaintiffs made no objection to the judge's inquiry or to either of the "Allen-type" instructions at trial. The judge's inquiry is not grounds for reversal. Brasfield v. United States, 272 U.S. 448 (1926) and United States v. Noah, 594 F.2d

1303 (9th Cir. 1979) are inapplicable here. Plaintiffs did not object to the trial court's inquiry. See Chicago, Rock Island and Pacific Railroad Co. v. Hugh Breeding, Inc., 247 F.2d 217, 227 (10th Cir. 1957); Maloney v. Tunnell, 218 F.2d 705, 709-11 (3d Cir. 1955). Further, this case is distinguishable from Brasfield and Noah. This is a civil action.

The plaintiffs' objections to the unanimity of the verdict are based on one juror's statements after the jury had returned its verdicts against the plaintiffs. Upon being polled about his vote, one juror, juror McKeag, stated that: "In order to get a unanimous vote I voted yes." After further questioning he admitted that his verdict was a yes. McKeag's affidavit explaining his vote is not admissible to impeach the jury's verdict. Fed.R.Evid. §606(b). He affirmed his verdict in open court, and thus the holding

in United States v. Nelson, 692 F.2d 83 (9th Cir. 1982), is not applicable.

VII. Did the District Court Err by Not Limiting its Award to Those Attorney's Fees and Costs Related to Recovery of the Unpaid Balances Owed the Banks?

While the district court's fact findings in determining an award for attorneys' fees are reviewed under an abuse of discretion standard, the legal principles relied upon by the court are subject to de novo review. Lewis v. Anderson, 692 F.2d 1267, 1269 (9th Cir. 1982). Plaintiffs ask us to reverse the attorneys' fees award on the grounds that the principle of Wagner v. Benson, 101 Cal.App.3d 27, 161 Cal.Rptr. 516 (1980) should not be applied here.

California law governs the fee awards. See Kabatoff v. Safeco Ins. Co. of America, 627 F.2d 207, 210 (9th Cir. 1980). The California Supreme Court advocates a flexible approach to the interpretation of an attorneys' fees clause. Public policy,

equity and the potential affect on litigation are all to be considered in determining an award for attorneys' fees. Sciarrotta v. Teaford Construction Co., 110 Cal.App.3d 444, 167 Cal.Rptr. 849, 852 (1969).

While these factors may justify a departure from the rule set forth in Wagner, supra, the facts support the district court's decision to follow Wagner. In Wagner the court examined an attorneys' fee contract which provided that the prevailing party was to be compensated for costs incurred in enforcing the contract. The Court held that the attorneys' fees awarded should not be apportioned between the defense and collection aspects of the case when a party's litigation in defense of a contract was necessary to its collection efforts on the contract. Wagner was followed in IMO Development Corp. v. Dow Corning Corp., 135 Cal.App.3d 451, 464-65,

185 Cal.Rptr. 341, 349 (1982). (Issues cannot be separated for the purpose of apportioning the attorneys' award because determination of action for rescission of contract was "necessarily dispositive" of determination of contract obligation.) See also Michael-Regan Co., Inc., v. Lindell, 527 F.2d 653, 659 (9th Cir. 1975); Jaeger v. Canadian Bank of Commerce (California), 327 F.2d 743, 745-46 (9th Cir. 1964).

The plaintiffs' securities claims against the banks were "necessarily dispositive" of the banks' enforcement of the promissory notes. Plaintiffs sought to declare the promissory notes invalid on the basis of the securities laws, and thus the banks had to successfully defend against this in order to prevail on their collection claim. We affirm the award of attorneys' fees.

VIII. Did the District Court Err in Determining that the Promoters Were Collaterally Estopped From Denying that they had Engaged in an Overall Scheme to Defraud?

The defendant/promoters were convicted for mail fraud and interstate transportation of fraudulently taken property prior to the plaintiffs' instigation of this civil action. See United States v. Freeman, 619 F.2d 1112 (5th Cir.), cert.denied, 450 U.S. 910 (1980), where the defendants' criminal conviction is affirmed. Defendants C. and Alaine Temp appeal the district court's decision estopping the Temps from denying that they engaged in an overall scheme to defraud. Specifically, the Temps assert that the district court should not have allowed the use of collateral estoppel without reviewing the entire record of the criminal conviction, and that the district court permitted the application of collateral estoppel to facts that were not necessarily

determined in the criminal trial.

While it may be preferable and at times necessary for a court to examine the entire record, it was not error for the trial court to look solely to the appellate court opinion and the jury instructions to determine what was decided in the criminal proceeding for collateral estoppel purposes. See Emich Motors v. General Motors, Corp., 340 U.S. 558, 560-62 (1950); United States v. Podell, 572 F.2d 31, 35-36 (2d Cir. 1978); SEC v. Everest Management Corp., 466 F.Supp. 167, 172-74 (S.D.N.Y. 1979).

The Temps claim that collateral estoppel should not be applied to a finding that they engaged in an overall scheme to defraud because the facts necessarily determined in the criminal trial only involved a scheme using unowned leases to defraud a few plaintiffs. A scheme to defraud was one of the essential elements

of a crime for which the Temps were convicted. See Freeman, supra, 619 F.2d at 1117. The jury verdict was thus "firmly rooted" in a finding that the Temps were engaged in a fraudulent scheme. There is no error in estopping the Temps from denying that they engaged in an overall fraudulent scheme when the jury had found that they engaged a fraudulent scheme that affected a few of the plaintiffs. The application of collateral estoppel did not prevent the Temps from litigating whether the individual plaintiffs in this case were victims of the fraud and the damages, if any, owed. The cases cited by the plaintiff are not applicable here. See Columbia Plaza Corp v. Security Nat. Bank, 676 F.2d 780, 789-90 (D.C.Cir. 1982) (No collateral estoppel where indictment for conspiracy listed 85 overt acts and it was impossible to determine which acts were necessary for the conviction.) We uphold

the district court's application of collateral estoppel.

Other issues raised on appeal, though not lacking in merit are not pivotal.

Affirmed.

DATED AND FILE STAMPED: October 31, 1983.

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*The panel has concluded that the issues presented by this appeal do not meet the standards set by Rule 21 of the Rules of this Court for disposition by written opinion. Accordingly it is ordered that disposition be by memorandum, foregoing publication in the Federal Reporter, and that this memorandum may not be cited to or by the courts of this circuit.

Filed
Nov. 15, 1983

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSEPH L. POTSTADA, et al., Plaintiffs/ Appellants, vs. RICHARD D. FREEMAN, et al., Defendants/ Appellees.	CA Nos. 81-4515 81-4516 81-4517 81-4518 81-4519 81-4552
RANDOL PURVIANCE, et al., Cross-Claimants/ Appellees, vs. SECURITY PACIFIC NATIONAL BANK, a National Banking Association, Cross-Defendant/ Appellant.	ORDER

The panel will delay ruling on the pending motion to vacate judgment for lack of jurisdiction until the en banc court renders its decision in Pacemaker Diagnostic

Clinic of America, Inc., v. Instromedix, Inc., Nos. 82-3152 and 82-3182.

FOR THE COURT:

PHILLIP B. WINBERRY
Clerk of Court

By: (Signature)
Roger T. Ritter
Senior Deputy Clerk

Filed
Nov. 15, 1983

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSEPH L. POTSTADA, et al., Plaintiffs/ Appellants, vs. RICHARD D. FREEMAN, et al., Defendants/ Appellees.	)	CA Nos. 81-4515 81-4516 81-4517 81-4518 81-4552 81-4600
RANDOL PURVIANCE, et al., Cross-Claimants/ Appellees, vs. SECURITY PACIFIC NATIONAL BANK, a National Banking Association, Cross-Defendant/ Appellant.	)	ORDER

Before: WALLACE, SNEED, and FARRIS, Circuit Judges.

The panel as constituted in the above case has voted to deny the petition for

rehearing and reject the suggestion for rehearing en banc.

The full court has been advised of the suggestion for an en banc hearing and no judge of the court has requested a vote on it. Fed. R. App. P. 35(b).

The petition for rehearing is denied and the suggestion for rehearing en banc is rejected.

Further, this court's mandate is stayed until the panel has ruled on the pending motion to vacate judgment for lack of jurisdiction. The ruling on that motion has been delayed until the en banc court renders its decision in Pacemaker Diagnostic Clinic of America, Inc., v. Instromedix, Inc., Nos. 82-3152 and 82-3182.

Filed
Mar. 6, 1984

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSEPH L. POTSTADA, et al., Plaintiffs/ Appellants, vs. RICHARD D. FREEMAN, et al., Defendants/ Appellees.	)	CA Nos. 81-4515 81-4516 81-4517 81-4518 81-4552 81-4600
RANDOL PURVIANCE, et al., Cross-Claimants/ Appellees, vs. SECURITY PACIFIC NATIONAL BANK, a National Banking Association, Cross-Defendant/ Appellant.	)	ORDER

Before: WALLACE, SNEED, and FARRIS, Circuit Judges.

Upon due consideration, the panel makes the following orders:

1. The motion to vacate judgment for lack of jurisdiction is denied;

2. The motion to stay the mandate pending application to the United States Supreme Court for a writ of certiorari is granted. Issuance of the mandate is stayed until April 15, 1984. See Fed. R. App. P. 41 (b).

DIRECTED VERDICT

RE GLASS-STEAGALL ACT

EXCERPT FROM RT 20131

THE COURT: As to the list of affirmative defenses that is contained in Security Pacific's motion for directed verdict, I will grant as to the failure to state a cause of action. . . violation of the National Bank Act and lack of subject matter jurisdiction.

Filed
Aug. 27, 1981

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JOSEPH L. POTSTADA and LORETTA POTSTADA, et al., Plaintiffs, vs. RICHARD D. FREEMAN, et al., Defendants.	No. C-75-2456-SC POST-TRIAL ORDER NUMBER FOUR: MOTION FOR JUDGMENT NOTWITHSTANDING THE VERDICT AND FOR NEW TRIAL BY PLAINTIFF AND CROSS-CLAIMANTS
AND RELATED AND CONSOLIDATED CASES	

Plaintiffs and cross-defendants Lewis, et al., and cross-claimants/counter defendants Alldrins and Purviances have moved the Court for judgment notwithstanding the verdict against the defendant and counterclaiming banks on the 1933 Securities Act Section 12(1) and Corporations Code Section 25110 claims and affirmative defenses. The same parties move for

judgment notwithstanding the verdict against the defendant and counterclaiming leasing companies on their claims and the affirmative defense of failure of consideration. The same parties also move for a new trial against the defendant and counterclaiming banks and leasing companies on all claims and counterclaims decided against them. Plaintiff Melbostad and cross-claimant Purviances do not join in these motions on the breach of fiduciary duty claim which was decided in their favor.

Based on the briefs and supporting materials provided by the parties and its knowledge of the record in the case, the Court DENIES the motion.

IT IS SO ORDERED.

Dated: August 27, 1981

(Signature)
OWEN E. WOODRUFF, JR.
United States Magistrate

Filed
Aug. 28, 1981

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JOSEPH L. POTSTADA and LORETTA POTSTADA, et al., Plaintiffs, vs. RICHARD D. FREEMAN, et al., Defendants.	No. C-75-2456-SC POST-TRIAL ORDER NUMBER NINE: APPLICATION BY LEASING COMPANY DEFENDANTS FOR ATTORNEYS' FEES
AND RELATED AND CONSOLIDATED CASES	

Capital Reserve Leasing Corporation, C.I.T. Corporation and Leasco Capital Equipment Corporation make application to this Court for the award of attorneys' fees.

The Court recognizes that where attorneys' fees and expenses are recoverable pursuant to a contract, as they are in this case, such fees and expenses may be

awarded as an item of costs. United States v. Standard Oil Co., 156 F.2d 312, 315 (9th Cir. 1946). The Court directed the parties to make their application for attorneys' fees to the Court and referred the parties to certain of the leading cases on the issue of the amount of attorneys' fees for guidance as to factors that bear upon the issue. See, Orders entered herein on July 10, 1981 and July 15, 1981. Although the factors set out in those cases govern the award in statutory and equitable fund cases and it would not be an abuse of discretion for this court not to follow those guidelines in this case, See Gluck v. American Protection Industries, Inc., 619 F.2d 30, 3233 (9th Cir. 1980), the Court has considered those factors as discussed below in arriving at its decision. The Court, however, is not required to and does not make precise calculations on the record. Manhart v. City of Los Angeles,

Dept. of Water, ____ F.2d ____ (9th Cir. 1981) (slip op. 3891).

The Court in reviewing the attorneys' fees requested in this application has considered certain of the Kerr-Johnson guidelines, See Kerr v. Screen Extras Guild, 526 F.2d 67, 70 (9th. 1975), cert. denied, 425 U.S. 951 (1976) following Johnson v. Georgia Highway Express, 488 F.2d 714 (5th Cir. 1974). In addition, the Court has examined the "lodestar" requested to insure that the number of hours expended and the hourly rates claimed are reasonable. Cf. Lindy Brothers Builders Inc. of Philadelphia v. American Radiator & Standard Sanitary Corp., 487 F.2d 161 (3rd Cir. 1973) (Lindy I) and on appeal after remand at 540 F.2d 102 (3rd Cir. 1976) (Lindy II).

Although there are twelve Kerr- Johnson factors, the Court has focused on six which are particularly applicable to this

case: the time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly, the preclusion of other employment by the attorneys due to acceptance of the case, the customary fee, and the experience, reputation and ability of the attorneys.

As to these factors, the Court notes that this case required more than five years from the filing of the complaint to the rendering of judgment. The trial itself required ten months and generated over 30,000 pages of transcript. After more than three years of pretrial preparation plaintiffs substituted new counsel and filed an amended consolidated complaint which contained more than a dozen causes of action and defenses. Some of these theories, then alleged for the first time, were novel and difficult because they went to areas of the law where there

is either a conflict in the Circuits or the law of the Ninth Circuit is itself unclear as applied to the facts of this case.

It is the Court's view, based on its own knowledge of the case and supported by the papers submitted by the parties, that the time and labor required in litigating this case was great, that the novelty and difficulty of the questions involved was considerable, and that the attorneys performed with the degree of skill required to perform the legal services properly. In addition, it is apparent that attorneys involved in this case were precluded from other employment to a great extent during the time the case was in preparation and at trial. As to the experience of the attorneys, their papers in support of this application make the record clear. As to the ability of the attorneys, the Court is of the view that they have performed well

in circumstances that required endurance, ingenuity and diligence. The customary fee factor is considered below as part of the lodestar analysis.

The Court has also examined the declarations supporting the requested fees. The Court notes that the hourly fees claimed by the various attorneys and paralegals are reasonable, as are the number of hours claimed. These defendants, however, are less clear as to what the total amount of the request is. As to Leasco, the amount of the award is discussed below. As to Capital Reserve, a total of $222,891 appears supported (see July 22, 1981 Declaration of Wong and June 25, 1981 Declaration of Spence). As to C.I.T., the total figure supported is $59,280 (see July 22, 1981 Declaration of Wong).

The Court has considered the objections raised by plaintiffs and finds that, with the exception of matters discussed

below; no adjustments in the requested sums are required.

The plaintiffs are correct that the recovery of attorneys' fees in this case are contractual and that as to defendant Leasco the contract provides for less than complete recovery of attorneys' fees in this case. Paragraph twelve of the Leasco agreement provides in pertinent part: "Lessee shall also be liable for and shall pay to Lessor all expenses incurred by Lessor in connection with the enforcement of any of Lessor's remedies, including . . . legal expenses and reasonable attorneys' fees of 20% of the total unpaid balance of the term of this lease." Accordingly, Leasco is limited to 20% of the balance remaining on each individual lease and may recover only that amount as to that plaintiff.

As to C.I.T. and Capital Reserve, the plaintiffs' argument is correct insofar as

it would require apportionment of the award among plaintiffs who had equipment lease obligations with each leasing company. Plaintiffs who had no contractual obligation with a leasing company cannot be assessed fees. However, it is sufficient that a plaintiff had such an obligation; it is not required that a leasing company assert against a plaintiff a counterclaim.

In summary, the Court rules as follows:

As to Leasco, the award of attorneys' fees is limited to 20% of "the total unpaid rental" of each lease. Counsel for Leasco is directed to submit a declaration which specifies the total unpaid rental as to each plaintiff against whom Leasco prevailed and computing the 20% recovery. Further, Leasco's counsel is directed to submit an order to the Court which reflects the recovery of fees computed in the declaration.

As to C.I.T. and Capital Reserve, counsel is to submit an order in accordance with the above findings as to the reasonable amount of attorneys' fees to be awarded to each leasing company and apportioning that amount equally among those parties who had contractual obligations with each such company.

IT IS SO ORDERED.

Dated: August 27, 1981

(Signature)
OWEN E. WOODRUFF, JR.
United States Magistrate

Filed
Aug. 28, 1981

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JOSEPH L. POTSTADA and LORETTA POTSTADA, et al., Plaintiffs, vs. RICHARD D. FREEMAN, et al., Defendants.	No. C-75-2456-SC POST-TRIAL ORDER NUMBER TEN: COMMERCIAL BANK OF SAN FRANCISCO, JOHN SMITH AND WILLIAM SARSFIELD MOTION FOR ORDER AWARDING ATTORNEYS' FEES AND NON-STATUTORY COSTS
AND RELATED AND CONSOLIDATED CASES	

Commercial Bank of San Francisco, John Smith and William Sarsfield move the Court for an order awarding them attorneys' fees and costs pursuant to the terms of the promissory notes given the Bank by certain of the plaintiffs in this case. Specifically, these defendants ask for an award of $252,902.67 to be assessed sever-

ally against thirteen plaintiffs as to whom the defendants prevailed.

The Court recognizes that where attorneys' fees and expenses are recoverable pursuant to a contract, as they are in this case, such fees and expenses may be awarded as an item of costs. United States v. Standard Oil Co., 156 F.2d 312, 315 (9th Cir. 1946). The Court directed the parties to make their application for attorneys' fees to the Court and referred the parties to certain of the leading cases on the issue of the amount of attorneys' fees for guidance as to factors that bear upon the issue. See, Orders entered herein on July 10, 1981 and July 15, 1981. Although the factors set out in those cases govern the award in statutory and equitable fund cases and it would not be an abuse of discretion for this court not to follow those guidelines in this case, See Gluck v. American Protection Industries,

Inc., 619 F.2d 30, 3233 (9th Cir. 1980), the Court has considered those factors as discussed below in arriving at its decision. The Court, however, is not required to and does not make precise calculations on the record. Manhart v. City of Los Angeles, Dept. of Water, ____ F.2d ____ (9th Cir. 1981) (slip op. 3891).

The Court in reviewing the attorneys' fees requested in this application has considered certain of the Kerr-Johnson guidelines, See Kerr v. Screen Extras Guild, 526 F.2d 67, 70 (9th. 1975), cert. denied, 425 U.S. 951 (1976) following Johnson v. Georgia Highway Express, 488 F.2d 714 (5th Cir. 1974). In addition, the Court has examined the "lodestar" requested to insure that the number of hours expended and the hourly rates claimed are reasonable. Cf. Lindy Brothers Builders Inc. of Philadelphia v. American Radiator & Standard Sanitary Corp., 487 F.2d 161

(3rd Cir. 1973) (Lindy I) and on appeal after remand at 540 F.2d 102 (3rd Cir. 1976) (Lindy II).

Although there are twelve Kerr- Johnson factors, the Court has focused on six which are particularly applicable to this case: the time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly, the preclusion of other employment by the attorneys due to acceptance of the case, the customary fee, and the experience, reputation and ability of the attorneys.

As to these factors, the Court notes that this case required more than five years from the filing of the complaint to the rendering of judgment. The trial itself required ten months and generated over 30,000 pages of transcript. After more than three years of pretrial preparation plaintiffs substituted new counsel

and filed an amended consolidated complaint which contained more than a dozen causes of action and defenses. Some of these theories, then alleged for the first time, were novel and difficult because they went to areas of the law where there is either a conflict in the Circuits or the law of the Ninth Circuit is itself unclear as applied to the facts of this case.

It is the Court's view, based on its own knowledge of the case and supported by the papers submitted by the parties, that the time and labor required in litigating this case was great, that the novelty and difficulty of the questions involved was considerable, and that the attorneys performed with the degree of skill required to perform the legal services properly. In addition, it is apparent that attorneys involved in this case were precluded from other employment to a great extent during the time the case was in preparation and

at trial. As to the experience of the attorneys, their papers in support of this application make the record clear. As to the ability of the attorneys, the Court is of the view that they have performed well in circumstances that required endurance, ingenuity and diligence. The customary fee factor is considered below as part of the lodestar analysis.

The Court has also examined the lodestar amount requested by Commercial Bank of San Francisco, John Smith and William Sarsfield. First, the Court notes that the hourly fees claimed by the various attorneys and paralegal assistants are reasonable, as are the non-statutory cost figures. The court has scrutinized the declarations submitted in support of the amount requested and finds that the hours claimed to have been expended in this litigation are reasonable. In addition, the Court has examined the method of Com-

mercial Bank of San Francisco, John Smith and William Sarsfield in arriving at the total figure of fees and costs and finds that the method is sound and the sum reasonable.

The Court has considered the objections raised by plaintiffs, some of which the defendants here have cured during the briefing schedule, and finds nothing which merits adjusting the amount requested.

Accordingly, for the reasons set out above, the Court GRANTS the motion of these parties and awards to them attorneys' fees and other non-statutory costs from the plaintiffs below in the amount of $252,902.67 to be severally assessed as follows:

As to the following seven plaintiffs, $18,722,18 each:

1. Alvin W. and Catherine Dill
2. John C. and Patricia M. Dumars
3. Gaar Edwards
4. Robert L. and Betty Harrington
5. Ronald and Elizabeth Hayman

6. Shoge and Janet May Kimura
7. Philip R. and Rina Milano

As to the following six plaintiffs,

in the amounts specified:

1. Calvin and Jacqueline A. Benton- $20,598.36;
2. Clarence N. and Louise T. Copeland - $19,919.66;
3. Howard D. Daniel - $19.769.36;
4. Jared E. and Elsie E. Haight - $20,444.36;
5. Leo J. and Osie B. Lawrence - $21,073.36;
6. Eugene P. and Mary Olga Liston - $22,476.21.

IT IS SO ORDERED

Dated: August 27, 1981

(Signature)
OWEN E. WOODRUFF, JR.
United States Magistrate

Filed
Aug. 28, 1981

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JOSEPH L. POTSTADA and LORETTA POTSTADA, et al., Plaintiffs, vs. RICHARD D. FREEMAN, et al., Defendants.	No. C-75-2456-SC POST-TRIAL ORDER NUMBER ELEVEN: MOTION BY SECURITY PACIFIC NATIONAL BANK TO AWARD ATTORNEYS' FEES
AND RELATED AND CONSOLIDATED CASES	

Security Pacific National Bank makes application to the Court of an order awarding it attorneys' fees and costs pursuant to the terms of the promissory notes given the Bank by the plaintiff in this case. Specifically, the Bank asks for an award of $1,522,527 to be assessed against each of the 32 plaintiffs in equal shares of $47,578.97.

The Court recognizes that where attorneys' fees and expenses are recoverable pursuant to a contract, as they are in this case, such fees and expenses may be awarded as an item of costs. United States v. Standard Oil Co., 156 F.2d 312, 315 (9th Cir. 1946). The Court directed the parties to make their application for attorneys' fees to the Court and referred the parties to certain of the leading cases on the issue of the amount of attorneys' fees for guidance as to factors that bear upon the issue. See, Orders entered herein on July 10, 1981 and July 15, 1981. Although the factors set out in those cases govern the award in statutory and equitable fund cases and it would not be an abuse of discretion for this court not to follow those guidelines in this case, See Gluck v. American Protection Industries, Inc., 619 F.2d 30, 3233 (9th Cir. 1980), the Court has considered those factors as

discussed below in arriving at its decision. The Court, however, is not required to and does not make precise calculations on the record. Manhart v. City of Los Angeles, Dept. of Water, ____ F.2d ____ (9th Cir. 1981) (slip op. 3891).

The Court in reviewing the attorneys' fees requested in this application has considered certain of the Kerr-Johnson guidelines, See Kerr v. Screen Extras Guild, 526 F.2d 67, 70 (9th. 1975), cert. denied, 425 U.S. 951 (1976) following Johnson v. Georgia Highway Express, 488 F.2d 714 (5th Cir. 1974). In addition, the Court has examined the "lodestar" requested to insure that the number of hours expended and the hourly rates claimed are reasonable. Cf. Lindy Brothers Builders Inc. of Philadelphia v. American Radiator & Standard Sanitary Corp., 487 F.2d 161 (3rd Cir. 1973) (Lindy I) and on appeal

after remand at 540 F.2d 102 (3rd Cir. 1976) (Lindy II).

Although there are twelve Kerr- Johnson factors, the Court has focused on six which are particularly applicable to this case: the time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly, the preclusion of other employment by the attorneys due to acceptance of the case, the customary fee, and the experience, reputation and ability of the attorneys.

As to these factors, the Court notes that this case required more than five years from the filing of the complaint to the rendering of judgment. The trial itself required ten months and generated over 30,000 pages of transcript. After more than three years of pretrial preparation plaintiffs substituted new counsel and filed an amended consolidated com-

plaint which contained more than a dozen causes of action and defenses. Some of these theories, then alleged for the first time, were novel and difficult because they went to areas of the law where there is either a conflict in the Circuits or the law of the Ninth Circuit is itself unclear as applied to the facts of this case.

It is the Court's view, based on its own knowledge of the case and supported by the papers submitted by the parties, that the time and labor required in litigating this case was great, that the novelty and difficulty of the questions involved was considerable, and that the attorneys performed with the degree of skill required to perform the legal services properly. In addition, it is apparent that attorneys involved in this case were precluded from other employment to a great extent during the time the case was in preparation and

at trial. As to the experience of the attorneys, their papers in support of this application make the record clear. As to the ability of the attorneys, the Court is of the view that they have performed well in circumstances that required endurance, ingenuity and diligence. The customary fee factor is considered below as part of the lodestar analysis.

The Court has also examined the lodestar amount requested by Security Pacific National Bank. First, the Court notes that the hourly fees claimed by the various attorneys and paralegal assistants are reasonable, as are the non-statutory cost figures. The court has scrutinized the declarations submitted in support of the amount requested and finds that the hours claimed to have been expended in this litigation are reasonable. In addition, the Court has examined the method of Security Pacific National Bank in arriving at the

total figure of fees and costs and finds that the method is sound and the sum reasonable.

The Court has considered the objections raised by plaintiffs and finds nothing which merits adjusting the amount requested. However, one argument must be specifically addressed. Plaintiffs allege that Security Pacific has shown bad faith and that the Court should exercise its inherent equitable power to deny the request for attorneys' fees in its entirety. This the Court will not do. To the extent that the alleged bad faith is a factual question, the jury rejected it and the Court finds nothing in the post-trial papers that requires a different view be taken now. The Court agrees with the plaintiffs that the Court has the power to grant the equitable relief they seek where an appropriate factual, setting is present. Such facts are not here present.

Accordingly, for the reasons set out above, the Court GRANTS the application of Security Pacific National Bank and awards to it attorneys' fees and other non-statutory costs from the plaintiffs in the amount of $1,522,527 to be assessed against each of the 32 plaintiffs in equal shares of $47,578.97.

IT IS SO ORDERED

Dated: August 27, 1981

(Signature)
OWEN E. WOODRUFF, JR.
United States Magistrate

Filed
Aug. 28, 1981

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JOSEPH L. POTSTADA and LORETTA POTSTADA, et al., Plaintiffs, vs. RICHARD D. FREEMAN, et al., Defendants.	No. C-75-2456-SC POST-TRIAL ORDER NUMBER EIGHTEEN: PLAINTIFFS' MOTION FOR AN EVIDENTIARY HEARING ON THE QUESTION OF JUROR UNANIMITY
AND RELATED AND CONSOLIDATED CASES	

On the last day of the briefing schedule ordered by the Court for all post-trial motions, the plaintiffs filed notice of an ex parte motion for an evidentiary hearing on the question of juror unanimity seeking an order from this Court directing the Clerk of the Court to issue subpoenaes ordering that the trial jurors in this case appear for a hearing before the Court.

Based on the plaintiffs' Memorandum of Points and Authorities in Support of the motion, the briefs submitted by the parties in connection with plaintiffs' motion for judgment notwithstanding the verdict and for a new trial to the extent that they address the issue of jury unanimity, and on its knowledge of the record in the case, the Court DENIES the motion.

IT IS SO ORDERED

Dated: August 27, 1981

(Signature)
OWEN E. WOODRUFF, JR.
United States Magistrate

STATUTES

28 U.S.C. §636(c) provides, in pertinent part: Upon the consent of the parties, a full-time United States magistrate or a part-time United States magistrate who serves as a full-time judicial officer may conduct any or all proceedings in a jury or nonjury civil matter and order the entry of judgment in the case when specially designated to exercise such jurisdiction by the district court or courts he serves.

12 U.S.C. §24(7) provides, in pertinent part: To exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by

loaning money on personal security; and by obtaining, issuing, and circulating notes according to the provisions of this chapter. The business of dealing in securities and stock by the association shall be limited to purchasing and selling such securities and stock without recourse, solely upon the order, and for the account of, customers, and in no case for its own account, and the association shall not underwrite any issue of securities or stock: Provided, That the association may purchase for its own account investment securities under such limitations and restrictions as the Comptroller of the Currency may by regulation prescribe.

12 U.S.C. §378 provides, in pertinent part: Dealers in securities engaging in banking business; individuals or associations engaging in banking business; examinations and reports; penalties

(a) After the expiration of one year

after June 16, 1933, it shall be unlawful:

(1) for any person, firm, corporation, association, business trust, or other similar organization, engaged in the business of issuing, underwriting, selling, or distributing, at wholesale or retail, or through syndicate participation, stocks, bonds, debentures, notes, or other securities, to engage at the same time to any extent whatever in the business of receiving deposits subject to check or to repayment upon presentation of a passbook, certificate of deposit, or other evidence of debt, or upon request of the depositor: Provided, That the provisions of this paragraph shall not prohibit national banks or State banks or trust companies (whether or not members of the Federal Reserve System) or other financial institutions or private bankers from dealing in, underwriting, purchasing, and selling investment securities, or issuing

securities, to the extent permitted to national banking associations by the provisions of section 24 of this title. . .

(2) For any person, firm, corporation, association, business trust, or other similar organization to engage, to any extent whatever with other than his or its officers, agents or employees, in the business of receiving deposits subject to check or to repayment upon presentation of a passbook, certificate of deposit, or other evidence of debt, or upon request of the depositor, unless such person, firm, corporation, association, business trust, or other similar organization (A) shall be incorporated under, and authorized to engage in such business by, the laws of the United States or of any State, Territory or District, and subjected, by the laws of the United States, or of the State, Territory, or District wherein located, to examination and regulation, or

(B) shall be permitted by the United States, any State, territory, or district to engage in such business and shall be subjected by the laws of the United States, or such State, territory, or district to examination and regulations or, (C) shall submit to periodic examination by the banking authority of the State, Territory, or District where such business is carried on and shall make and publish periodic reports of its condition, exhibiting in detail its resources and liabilities, such examination and reports to be made and published at the same times and in the same manner and under the same conditions as required by the law of such State, Territory, or District in the case of incorporated banking institutions engaged in such business in the same locality.

(b) Whoever shall willfully violate any of the provisions of this section

shall upon conviction be fined not more than $5,000 or imprisoned not more than five years, or both, and any officer, director, employee, or agent of any person, firm, corporation, association, business trust, or other similar organization who knowingly participates in any such violation shall be punished by a like fine or imprisonment or both. June 16, 1933, c.89, §21, 48 Stat. 189; Aug. 23, 1935, c.614, §303, 49 Stat. 707.

PLAINTIFF'S EXHIBIT 95-2

SECURITY PACIFIC NATIONAL BANK -

INTERNAL COMMUNICATION

To: Mr. John R. Jenkins,
Regional Vice President
5-102

From: A. E. Dalshaug,
Senior Vice President

Dept. or Br.: North Coastal Divsion 5-108

Date: February 22, 1973

Subject: DIVERSIFIED MONETARY SYSTEMS REFERRALS, SAN FRANCISCO MAIN OFFICE

While you were absent on vacation, a number of unsecured five-year instalment loans cleared through the Northern Calif-

ornia Loan Committee, which were booked at San Francisco Main Office, and which were referred by Diversified Monetary Systems. The purpose of this memorandum is to record some thoughts and concerns regarding the afore-mentioned credit extensions, as evidenced by the Committee:

(1) It is very difficult to tell from the Credit Commitment Reports clearing each individual transaction, whether or not that credit represents an acceptable risk, and whether or not the credit is rational from every viewpoint.

Specifically, the following information would greatly benefit the reader:

(a) Where does the obligant live --- does he represent a good potential customer for our Bank?

(b) How long has he been in practice (if self-employed) or in his present employment? History of income, rather than a statement of one-year income, would certainly help. Most of the Credit Commitment Reports show one-year income figures, although there was an indication that several years' tax returns were reviewed by the Lending Officer. The usual three-year income expense presentation is warranted, con-

sidering the size of the loans being made under the program.

(c) Who is the borrower's present bank --- some of the borrowers have a significant amount of cash, which we obviously should like to have an opportunity to have on deposit.

(2) Some of the borrowers had high income, but negligible net worth. Where lack of sound secondary repayment source exists (because of negligible net worth), we should obtain disability insurance to provide income to service the bank debt in the event the borrower

becomes ill, or is involved in accidental disability.

(3) We have adopted a practice of having each borrower come into the branch, and, at that time, inform him specifically that his loan is based on his credit alone, and that the Bank does not endorse, guarantee, or support the investment and has no connection with Diversified Monetary Systems. It was felt that a form letter should be prepared to be signed by the borrower to put as disclaimers in writing to become a permanent part of our file.

Most of the credits I have reviewed represent acceptable risks, and most of the borrowers are people of high income, whom

we would be pleased to have as customers. To that extent, I endorse this business acquisition program. You are aware, however, I am sure, of the very embarrassing publicity the Union Bank recently suffered in Los Angeles through its involvement in financing individuals on a referral basis for tax savings investments in a program very similar to this. It is an unfortunate fact that our willingness to make available funds for investment in programs of Diversified Monetary Systems connect us irrefutably in the mind of the borrower with Diversified Monetary Systems, our protestations to the contrary notwithstanding. The best way to avoid problems in the future, is to get the proper documentation now, and you should work with Frank Higham to see what can be done. I think further that we should insist on each borrower becoming a customer --- if we do that, we can take the position that

the purpose of our loan was to gain a customer, and not to facilitate an investment. If we fail to insist on an account, there is no question, we made the loan for the loan's sake --- which puts it in the realm of discounting paper.

I understand some $2,000,000 of loans have already been booked, so our risk to a class-action suit, at some point in time, is already in the books. The chance of one of these borrowers becoming disenchanted and choosing to enjoin us in an action, is uncomfortably strong.

Please discuss this with me prior to March 15th.

(Signature)

AED:ib

cc: Mr. L. P. Johnson,
Executive Vice President

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED JUDGMENT AS TO PLAINTIFFS AND CROSS-DEFENDANTS ALLDRIN

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of cross-claimants and cross-defendants, Walden E. and Louis Alldrin and on the cross-claims against them, and against cross-defendant Alldrin Farms, Inc., initial judgment having been entered on June 23, 1981, and the Court having ruled on the

parties' post-trial motions.

IT IS ORDERED AND ADJUDGED that cross-claimants recover of cross-defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally, the sum of $65,000 and costs in the sum of $3,602.

IT IS FURTHER ORDERED AND ADJUDGED that cross-claimants take nothing on their claims against cross-defendants Security Pacific National Bank, John F. Smith, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the cross-complaint, and each claim therein, be dismissed as to those cross-defendants and each of them; that those cross-defendants recover of the cross-claimants, and each of them, their

costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED:

(1) That Security Pacific national Bank recover of cross-defendants Alldrin, and each of them, the principal sum of $44,000, plus interest through the date of judgment in the sum of $25,776.59 and at the legal rate thereafter and costs, including reasonable attorneys' fees of $52,999; and

(2) That Leasco Capital Equipment Corporation recover of cross-defendants Alldrin, and each of them, the principal sum of $44,528 plus interest through the date of judgment in the sum of $21,032.80 and at the legal rate thereafter and costs, including reasonable attorneys fees of $9,048.

(3) That Capital Reserve Leasing Corporation recover of cross-defendants Alldrin, and each of them, the principal sum of $27,239, plus interest through the

date of judgment in the sum of $12,629.78 and at the legal rate thereafter and costs, including reasonable attorneys' fees of $14,367; and

(4) That CIT Corporation recover of cross-defendants Alldrin, including Alldrin Farms, Inc., and each of them, the principal sum of $14,708, plus interest through the date of judgment in the sum of $14,708, plus interest through the date of judgment in the sum of $5,352.36 and at the legal rate thereafter and costs, including reasonable attorneys' fees of $30,285.

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.

United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED
JUDGMENT AS TO PLAINTIFFS
AND COUNTER DEFENDANTS
BENTON

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counter-defendants, Calvin and Jacqueline A. Benton and on the counterclaims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties'

post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally, the sum of $73,000 plus and costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiffs,

and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

(1) That Security Pacific National Bank recover of counterdefendants, and each of them, the principal sum of $86,962, plus interest through the date of judgment in the sum of $28,209 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $50,971;

(2) That Commercial Bank of San Francisco recover of counter-defendants, and each of them, the principal sum of $42,029, plus interest through the date of judgment in the sum of $37,185 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $20,934;

(3) That Leasco Capital Equipment Corporation recover of counter-defendants, and each of them, the principal sum of $9,875 plus interest through the date of judgment in the sum of $4,097 and at the

legal rate thereafter and costs, including reasonable attorneys' fees, of $2,117; and

(4) That Capital Reserve Leasing Corporation recover of counter-defendants, and each of them, the principal sum of $7,002, plus interest through the date of judgment in the sum of $4,245 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $14,367.

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED
JUDGMENT AS TO PLAINTIFFS
AND COUNTER DEFENDANTS
BRYNER

This action having come on for trial

before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counter-defendants, Sergius and Frances A. Bryner and on the counterclaims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties' post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally the sum of $10,000 plus costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED

that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each; of them; that those defendants recover of the plaintiffs, and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

That Security Pacific National Bank recover of counterdefendants, and each of them, the principal sum of $19,548, plus interest through the date of judgment in the sum of $6,877 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $48,464;

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed

entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED JUDGMENT AS TO PLAINTIFFS AND COUNTER-DEFENDANTS COPELAND

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counter-defendants, Clarence N. and Louise T. Copeland and on the counterclaims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties' post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally, the sum of $40,000 plus costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiffs, and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

(1) That Security Pacific National Bank recover of counterdefendants, and each of them, the principal sum of $44,806, plus interest through the date of judgment in the sum of $15,075 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $50,890;

(2) That Commercial Bank of San Francisco recover of counter-defendant, Clarence N. Copeland the principal sum of $30,644, plus interest through the date of judgment in the sum of $28,069 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $20,255;

(3) That Leasco Capital Equipment Corporation recover of counter-defendants, and each of them, the principal sum of $4,512 plus interest through the date of judgment in the sum of $2,666 and at the legal rate thereafter and costs, including

reasonable attorneys' fees, of $1,045; and

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED
JUDGMENT AS TO PLAINTIFFS
AND COUNTER-DEFENDANTS
DANIEL

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiff and counter-defendant, Howard D. Daniel and on the counterclaims against him, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties' post-trial

motions,

IT IS ORDERED AND ADJUDGED that plaintiff recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally, the sum of $97,500 plus costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiff take nothing on his claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiff their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaim:

(1) That Security Pacific National Bank recover of counterdefendant, the principal sum of $84,481, plus interest through the date of judgment in the sum of $26,687 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $50,936;

(2) That Commercial Bank of San Francisco recover of counter-defendant, the principal sum of $77,691, plus interest through the date of judgment in the sum of $66,186 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $20,105;

(3) That Leasco Capital Equipment Corporation recover of counter-defendant, the principal sum of $14,998 plus interest through the date of judgment in the sum of $7,085 and at the legal rate thereafter and costs, including reasonable attorneys'

fees of $3,142; and

(4) That Capital Reserve Leasing Corporation recover of counter-defendant, the principal sum of $17,985, plus interest through the date of judgment in the sum of $10,900 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $14,367.

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED
JUDGMENT AS TO PLAINTIFFS
AND COUNTER-DEFENDANTS
DILL

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counter-defendants, Alvin W. and Catherine Dill and on the counterclaims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties'

post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alain C. Temp, and each of them, jointly and severally, the sum of $19,000 plus costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiffs,

and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

(1) That Security Pacific National Bank recover of counterdefendants, and each of them, the principal sum of $25,813, plus interest through the date of judgment in the sum of $9,011 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $57,115;

(2) That Commercial Bank of San Francisco recover of counterdefendant, Alvin W. Dill, the principal sum of $13,076, plus interest through the date of judgment in the sum of $10,912 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $19,058;

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that

date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED
JUDGMENT AS TO PLAINTIFF
DUFF

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiff John Duff, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties' post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiff recover of defendants Diversified Monetary

Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally, the sum of $40,000 and costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiff take nothing on his claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiff their costs of suit.

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro

tunc, and supersedes the judgment between the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED
JUDGMENT AS TO PLAINTIFFS
AND COUNTER DEFENDANTS
DUMARS

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counterdefendants, John C. and Patricia M. Dumars and on the counterclaim against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties' post-trial

motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally, the sum of $42,000 plus costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiffs,

and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

(1) That Security Pacific National Bank recover of counterdefendants, and each of them, the principal sum of $26,094, plus interest through the date of judgment in the sum of $9,287 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $48,464;

(2) That Commercial Bank of San Francisco recover of counterdefendants, and each of them, the principal sum of $58,002, plus interest through the date of judgment in the sum of $45,593 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $19,058;

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that

date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED
JUDGMENT AS TO PLAINTIFF
AND COUNTER-DEFENDANT
EDWARDS

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiff and counterdefendant, Gaar Edwards and on the counterclaims against him, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties' post-trial

motions,

IT IS ORDERED AND ADJUDGED that plaintiff recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally, the sum of $26,000 plus costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiff take nothing on his claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiff their costs of

suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

(1) That Security Pacific National Bank recover of counterdefendant, the principal sum of $17,856, plus interest through the date of judgment in the sum of $6,082 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $48,464;

(2) That Commercial Bank of San Francisco recover of counterdefendant, the principal sum of $22,101, plus interest through the date of judgment in the sum of $19,276 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $19,058;

(3) That Capital Reserve Leasing Corporation recover of counterdefendant, the principal sum of $3,732, plus interest through the date of judgment in the sum of $2,099 and at the legal rate thereafter

and costs, including reasonable attorneys' fees, of $14,367.

(4) That Leasco Capital Equipment Corporation recover of counterdefendant, the principal sum of $8,024 plus interest through the date of judgment in the sum of $5,066.60 and at the legal rate thereafter, and costs, including reasonable attorneys' fees of $1,747.

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED JUDGMENT AS TO PLAINTIFFS AND COUNTER DEFENDANTS FISH

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counterdefendants, Martin and Ruth E. Fish and on the counterclaims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties' post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally the sum of $22,500 plus costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiffs, and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

That Security Pacific National Bank recover of counterdefendants, and each of them, the principal sum of $45,441, plus interest through the date of judgment in the sum of $15,923 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $49,171;

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED
JUDGMENT AS TO PLAINTIFF
AND COUNTER DEFENDANT
FOX

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiff and counterdefendant, Maurice Fox and on the counterclaims against him, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties' post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally, the sum of $18,000 plus costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiff their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

(1) That Security Pacific National Bank recover of counterdefendant, the principal sum of $26,956, plus interest through the date of judgment in the sum of $6,936 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $48,464;

(2) That Capital Reserve Leasing Corporation recover of counterdefendant, the principal sum of $9,000, plus interest through the date of judgment in the sum of $5,083 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $14,367.

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED JUDGMENT AS TO PLAINTIFFS AND COUNTER DEFENDANTS FRY

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counterdefendants, Gary A. and Karen C. and on the counterclaims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties' post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally the sum of $10,000 plus costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiffs, and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

That Security Pacific National Bank recover of counterdefendants, and each of them, the principal sum of $19,624, plus interest through the date of judgment in the sum of $6,845 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $48,553;

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED
JUDGMENT AS TO PLAINTIFFS
AND COUNTER DEFENDANTS
HAIGHT

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counterdefendants, Jared E. and Elsie E. Haight and on the counterclaims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties'

post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally, the sum of $34,000 plus costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiffs,

and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaim:

(1) That Security Pacific National Bank recover of counterdefendants, and each of them, the principal sum of $35,075, plus interest through the date of judgment in the sum of $11,532 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $50,898;

(2) That Commercial Bank of San Francisco recover of counterdefendants, and each of them, the principal sum of $33,433, plus interest through the date of judgment in the sum of $29,595 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $20,780;

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that

date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED JUDGMENT AS TO PLAINTIFFS AND COUNTER DEFENDANTS HAMAJI

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counterdefendants, Roy S. and Mary K. Hamaji and on the counterclaims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties' post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally the sum of $21,250 plus costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiffs, and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

That Security Pacific National Bank recover of counterdefendants, and each of them, the principal sum of $42,449, plus interest through the date of judgment in the sum of $12,700 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $48,464;

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED
JUDGMENT AS TO PLAINTIFFS
AND COUNTER DEFENDANTS
HARRINGTON

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counter-defendants, Robert L. and Betty Harrington and on the counterclaims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties'

post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally, the sum of $27,500 plus and costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiffs,

and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

(1) That Security Pacific National Bank recover of counterdefendants, and each of them, the principal sum of $14,630, plus interest through the date of judgment in the sum of $5,083 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $48,464;

(2) That Commercial Bank of San Francisco recover of counterdefendants, and each of them, the principal sum of $28,217, plus interest through the date of judgment in the sum of $24,635 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $19,058;

(3) That Leasco Capital Equipment Corporation recover of counterdefendants, and each of them, the principal sum of $5,999 plus interest through the date of judgment in the sum of $3,776 and at the

legal rate thereafter and costs, including reasonable attorneys' fees, of $1,342; and

(4) That Capital Reserve Leasing Corporation recover of counterdefendants, and each of them, the principal sum of $6,394, plus interest through the date of judgment in the sum of $3,284 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $14,367.

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED JUDGMENT AS TO PLAINTIFFS AND COUNTER DEFENDANTS HAUG

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counterdefendants, Ronald and Marcia Haug and on the counterclaims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties' post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally, the sum of $30,000 plus costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiffs, and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

(1) That Security Pacific National Bank recover of counterdefendants, and each of them, the principal sum of $46,399, plus interest through the date of judgment in the sum of $16,175 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $51,500;

(2) That Leasco Capital Equipment Corporation recover of counterdefendants, and each of them, the principal sum of $3,453 plus interest through the date of judgment in the sum of $2,103 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $833; and

(3) That Capital Reserve Leasing Corporation recover of counterdefendants, and each of them, the principal sum of $10,504, plus interest through the date of judgment in the sum of $5,662 and at the legal rate thereafter and costs, including

reasonable attorneys' fees, of $14,367.

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED
JUDGMENT AS TO PLAINTIFFS
AND COUNTER DEFENDANTS
HAYMAN

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counterdefendants, Ronald and Elizabeth Hayman and on the counterclaims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties'

post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally, the sum of $55,000 plus costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiffs,

and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

(1) That Security Pacific National Bank recover of counterdefendants, and each of them, the principal sum of $40,193, plus interest through the date of judgment in the sum of $11,962 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $48,464;

(2) That Commercial Bank of San Francisco recover of counterdefendants, and each of them, the principal sum of $49,268, plus interest through the date of judgment in the sum of $37,327 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $19,058;

(3) That Capital Reserve Leasing Corporation recover of counterdefendants, and each of them, the principal sum of $20,056, plus interest through the date of judgment in the sum of $10,963 and at the

legal rate thereafter and costs, including reasonable attorneys' fees, of $14,367.

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED
JUDGMENT AS TO PLAINTIFFS
AND COUNTER DEFENDANTS
PACIFIC WOOD/JACKSON

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counterdefendants, Pacific Wood Preserving Corporation and Richard Jackson and on the counterclaims against them, initial judgment having been entered on June 23, 1981, and the Court

having ruled on the parties' post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independent Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally the sum of $25,000 plus costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that

those defendants recover of the plaintiffs, and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

That Security Pacific National Bank recover of counterdefendants, and each of them, the principal sum of $49,468, plus interest through the date of judgment in the sum of $17,254 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $48,464;

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED
JUDGMENT AS TO PLAINTIFFS
AND COUNTER DEFENDANTS
KIMURA

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counterdefendants, Shoge and Janet May Kimura and on the counterclaims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties'

post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally, the sum of $26,000 plus costs in the sum of $75,399;

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiffs,

and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

(1) That Security Pacific National Bank recover of counterdefendants, and each of them, the principal sum of $35,839, plus interest through the date of judgment in the sum of $12,509 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $48,464;

(2) That Commercial Bank of San Francisco recover of counterdefendants, and each of them, the principal sum of $15,990, plus interest through the date of judgment in the sum of $10,510 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $19,058;

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that

date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED
JUDGMENT AS TO PLAINTIFFS
AND COUNTER DEFENDANTS
LAWRENCE

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counterdefendants, Leo J. and Osie B. Lawrence and on the counterclaims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties'

post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally, the sum of $156,000 plus costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiffs,

and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

(1) That Security Pacific National Bank recover of counterdefendant, Leo J. Lawrence, the principal sum of $215,799, plus interest through the date of judgment in the sum of $68,228 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $50,978;

(2) That Commercial Bank of San Francisco recover of counterdefendants, and each of them, the principal sum of $66,219 plus interest through the date of judgment in the sum of $60,655 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $21,409;

(3) That Leasco Capital Equipment Corporation recover of counterdefendants, and each of them, the principal sum of $12,953 plus interest through the date of judgment in the sum of $6,120 and at the

legal rate thereafter and costs, including reasonable attorneys' fees, of $2,733; and

(4) That Capital Reserve Leasing Corporation recover of counterdefendants, and each of them, the principal sum of $17,455, plus interest through the date of judgment in the sum of $8,092 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $14,367.

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED JUDGMENT AS TO PLAINTIFFS AND COUNTER DEFENDANTS LEWIS

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counter-defendants, Bernard I. and Barbara Lewis and on the counterclaims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties' post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly severally the sum of $26,250 and costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiffs, and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

(1) That Security Pacific national Bank recover of counter-defendants, and each of them, the principal sum of $37,818, plus interest through the date of judgment in the sum of $13,202 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $48,464;

(2) That CIT Corporation recover of counter-defendants, and each of them, the principal sum of $14,708, plus interest through the date of judgment in the sum of $5,352 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $30,285.

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes and judgment between

the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED
JUDGMENT AS TO PLAINTIFFS
AND COUNTER DEFENDANTS
LISTON

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counter-defendants, Eugene P. and Mary Olga Liston and on the counterclaims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties'

post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alain C. Temp, and each of them, jointly and severally, the sum of $122,000 plus and costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiffs,

and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

(1) That Security Pacific National Bank recover of Counterdefendants, and each of them, the principal sum of $105,059, plus interest through the date of judgment in the sum of $34,080 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $51,043;

(2) That Commercial Bank of San Francisco Recover of counter-defendants, and each of them, the principal sum of $83,109, plus interest through the date of judgment in the sum of $72,791 and at the legal rate of thereafter and costs, including reasonable attorneys' fees, of $22,812;

(3) That Leasco Capital Equipment Corporation recover of counter-defendants, and each of them, the principal sum of $20,264 plus interest through the date of

judgment in the sum of $11,401 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $4,195; and

(4) That Capital reserve Leasing Corporation recover of counter-defendants, and each of them, the principal sum of $36,219 plus interest through the date of judgment in the sum of $20,415 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $14,367.

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, Nunc pro tunc, and supersedes the judgment between the parties originally entered on that date.

Dated at San Francisco, California this 18th date of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED JUDGMENT AS TO PLAINTIFFS AND COUNTER DEFENDANTS LUNDELL

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counter-defendants, Lowell and Joan S. Lundell and on the counterclaims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties' post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly severally the sum of $12,000 plus costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendant recover of the plaintiffs, and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

That Security pacific National Bank recover of counter-defendants, and each of them, the principal sum of $24,207, plus interest through the date of judgment in the sum of $8,378 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $48,464;

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED JUDGMENT AS TO PLAINTIFFS AND COUNTER DEFENDANTS McKEE

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counter-defendants, William D. and Marsha McKee and on the counterclaims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties' post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr. Richard D. Freeman, Conrad Robert Temp and Alain C. Temp, and each of them, jointly and severally the the sum of $28,700 plus costs in the sum of $75,399.

IT IS FURTHER ORDER AND ADJUDGED that plaintiffs take nothing on the claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiffs, and each of them, their costs of suit; and

IT IS FURTHER ORDER AND ADJUDGED with respect to the counterclaims:

That Security Pacific National Bank recover of counter-defendants, and each of them, the principal sum of $57,489, plus interest through the date of judgment in the sum of $14,790 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $48,464;

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that date.

Date at San Francisco, California this 18th day of september, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED JUDGMENT AS TO PLAINTIFFS AND COUNTER-DEFENDANTS MELBOSTAD

This action having been come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiff James Melbostad and on the counterclaims against him, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties' post-trial motions,

IT IS ORDERED AND ADJUDGED that

plaintiff recover of defendants Commercial Bank of San Francisco, Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alain C. Temp, and each of them, jointly and severally, the sum of $23,698 plus costs against such defendants, with the exception of Commercial Bank of San Francisco, in the sum of $75,339.81.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiff recover of defendant and counterclaimant Commercial Bank of San Francisco costs of $700 and reasonable attorneys' fees of $10,000; and

IT IS FURTHER ORDERED AND ADJUDGED that plaintiff takes nothing on his claims against defendants Security Pacific National Bank, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and

CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiff, his costs of suit.

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED
JUDGMENT AS TO PLAINTIFFS
AND COUNTER DEFENDANTS
MILANO

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counter-defendants, Philip R. and Rina Milano and on the counter-claims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties'

post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally, the sum of $30,500 plus costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific national Bank, Commercial Bank of San Francisco, John F. SMith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiffs,

and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

(1) That Security Pacific National Bank recover of counter-defendants, and each of them, the principal sum of $40,588, plus interest through the date of judgment in the sum of $14,056 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $48,464;

(2) That Commercial Bank of San Francisco recover of counter-defendants, and each of them, the principal sum of $12,554, plus interest through the date of judgment i the sum of $8,674 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $19,058;

(3) That Capital Reserve Leasing Corporation recover of counter-defendants, and each of them, the principal sum of $7,879, plus interest through the date of

judgment in the sum of $4,119 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $14,367.

IT IS FURTHER ORDER AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes and the judgment between the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED
JUDGMENT AS TO PLAINTIFFS
AND COUNTER-DEFENDANTS
MOYLAN

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counter-defendants, John D. and Margaret J. Moylan and on the counter-claims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties'

post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally the sum of $7,500 plus costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiffs,

and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

(1) That Security Pacific National Bank recover of counter-defendants, and each of them, the principal sum of $12,957, plus interest through the date of judgment i the sum of $4,629 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $48,464;

(2) That Capital Reserve Leasing Corporation recover of counter-defendants, and each of them, the principal sum of $2,402, plus interest through the date of judgment in the sum of $997 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $14,367.

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between

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the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED
JUDGMENT AS TO PLAINTIFFS
AND COUNTER-DEFENDANTS
OUYE

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counter-defendants, James M. and Nancy Y. Ouye and o the counter-claims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties'

post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally the sum of $45,000 plus costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific national Bank, Commercial Bank of San Francisco, John F. SMith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiffs,

and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

(1) That Security Pacific National Bank recover of counter-defendants, and each of them, the principal sum of $74,764, plus interest through the date of judgment in the sum of $19,235 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $48,539;

(2) That Capital Reserve Leasing Corporation recover of counter-defendants, and each of them, the principal sum of $14,362, plus interest through the date of judgment in the sum of $6,653 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $14,367.

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that

date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED
JUDGMENT AS TO PLAINTIFFS
AND COUNTER-DEFENDANTS
PAPPAS

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counter-defendants, Robert H. and Maria Pappas and on the counter claims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties'

post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally the sum of $8,250 plus costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. SMith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiffs,

and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

(1) That Security Pacific National Bank recover of counter-defendants, and each of them, the principal sum of $7,155, plus interest through the date of judgment in the sum of $2,746 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $48,464;

(2) That Capital Reserve leasing Corporation recover of counter-defendants, and each of them, the principal sum of $9,372, plus interest through the date of judgment in the sum of $4,823 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $14,367.

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23,1981, nunc pro tunc, and supersedes the judgment between

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the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
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Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED
JUDGMENT AS TO PLAINTIFFS
AND COUNTER DEFENDANTS
PEARSON

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counter-defendants, Kent D. and Claire Pearson and on the counterclaims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties'

post-trial motions,

IT IS ORDERED AND ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alain C. Temp, and each of them, jointly and severally the sum of $16,000 plus costs in the sum of $75,399.

It is further ordered and adjudged that plaintiffs take nothing on their claims against defendants Security Pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them; that those defendants recover of the plaintiffs,

and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED with respect to the counterclaims:

That Security Pacific National Bank recover of counter-defendants, Kent D. Pearson, the principal sum of $32,255, plus interest through the date of judgment in the sum of $11,259 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $48,464;

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that dates.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
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Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED JUDGMENT AS TO CROSS-CLAIMANTS AND CROSS-DEFENDANTS B. PURVIANCE

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of cross-claimants and cross-defendants, Billy Joe and Virginia Purviance and on the cross-claims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties' post-trial motions,

IT IS ORDERED AND ADJUDGED that cross-- - claimants recover of cross-defendants Security Pacific National Bank, Commercial Bank of San Francisco, Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally, the sum of $84,600 plus costs against such defendants, with the exception of Commercial Bank of San Francisco and Security Pacific National Bank, in the sum of $1,792.92.

IT IS FURTHER ORDERED AND ADJUDGED that cross-claimants recover additional costs in the sum of $448 from Commercial Bank of San Francisco and Security Pacific National Bank each, and reasonable attorneys' fees from Commercial Bank of San Francisco, in the sum of $15,000.

IT IS FURTHER ORDERED AND ADJUDGED

that cross-claimants take nothing on their claims against cross-defendants John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the cross-complaint, and each claim therein, be dismissed as to those cross-defendants and each of them; that those cross-defendants recover of the cross-claimants, and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED that cross-claimant Leasco Capital Equipment Corporation recover of cross-defendants Purviance, and each of them, the principal sum of $3,876, plus interest through the date of judgment in the sum of $1,602.72 and at the legal rate thereafter and costs, including reasonable attorneys' fees in the sum of $917.

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed

entered effective June 23, 1981, nunc pro tunc, supersedes the judgment between the parties originally entered on that date.

Dated at San francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED JUDGMENT AS TO CROSS-CLAIMANTS AND CROSS-DEFENDANTS R. PURVIANCE

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States Magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of cross-claimants and cross-defendants, Randol and Betty Purviance on the cross-claims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties' post-trial motions,

IT IS ORDERED AND ADJUDGED that cross-claimants recover of cross-defendants Security Pacific National Bank, Commercial Bank of San Francisco, Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally, the sum of $84,600 plus costs against such defendants, with the exception of Commercial Bank of San Francisco and Security Pacific National Bank, in the sum of $1,792.92.

IT IS FURTHER ORDERED AND ADJUDGED that cross-claimants recover additional costs, in the sum of $448 from Commercial Bank of San Francisco and Security Pacific national Bank each, and reasonable attorneys' fees from Commercial Bank of San Francisco, in sum of $15,000.

IT IS FURTHER ORDERED AND ADJUDGED

that cross-claimants take nothing on their claims against cross-defendants John F. Smith, William Sarsfield, Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the cross-complaint, and each claim therein, be dismissed as to those cross-defendants and each of them; that those cross-defendants recover of the cross-claimants, and each of them, their costs of suit.

IT IS FURTHER ORDERED AND ADJUDGED that cross-claimant Leasco Capital Equipment Corporation recover of cross-defendants Purviance, and each of them, the principal sum of $3,876, plus interest through the date of judgment in the sum of $1,602.72 and at the legal rate thereafter and costs, including reasonable attorneys' fees, in the sum of$917.

IT IS FURTHER ORDERED AND ADJUDGED that this Amended Judgment shall be deemed

entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

POTSTADA v. FREEMAN) No.C 75-2456-SC
)
)

Related Actions

No. C 76-196 SC
No. C 76-1178 SC
No. C 76-2390 SC
No. C 76-2848 SC

AMENDED
JUDGMENT AS TO PLAINTIFFS
AND COUNTER-DEFENDANTS
ROTH

This action having come on for trial before the Court and a jury, the Honorable Owen E. Woodruff, Jr., United States magistrate, presiding by stipulation of the parties, the jury having unanimously rendered its Special Verdicts on each of the claims of plaintiffs and counter-defendants, Robert L. and Alberta M. Roth and on the counterclaims against them, initial judgment having been entered on June 23, 1981, and the Court having ruled on the parties'

post-trial motions,

IT IS ORDERED ADJUDGED that plaintiffs recover of defendants Diversified Monetary Systems, Inc., Economic Control Corporation, Continental Pacific Corporation, Independence Drilling Corporation, Walter Wilson Carter, Jr., Richard D. Freeman, Conrad Robert Temp and Alaine C. Temp, and each of them, jointly and severally, the sum of $35,000 plus costs in the sum of $75,399.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiffs take nothing on their claims against defendants Security pacific National Bank, Commercial Bank of San Francisco, John F. Smith, William Sarsfield Leasco Capital Equipment Corporation, Capital Reserve Leasing Corporation and CIT Corporation; that the complaint, and each claim therein, be dismissed as to those defendants and each of them, their costs of suit; and

IT IS FURTHER ORDERED AND ADJUDGED

with respect to the counterclaims:

(1) That Security Pacific National Bank recover of counter-defendants, and eACH OF THEM, THE PRINCIPAL SUM OF $63,054, plus interest through the date of judgment in the sum of $20,368 and at the legal rate thereafter ad costs, including reasonable attorneys' fees, of $48,464;

(2) That Capital Reserve Leasing Corporation recover of counter-defendants, and each of them, the principal sum of $7,396, plus interest through the date of judgment in the sum of $4,053 and at the legal rate thereafter and costs, including reasonable attorneys' fees, of $14,367.

IT IS FURTHERED ORDERED AND ADJUDGED that this Amended Judgment shall be deemed entered effective June 23, 1981, nunc pro tunc, and supersedes the judgment between

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the parties originally entered on that date.

Dated at San Francisco, California this 18th day of September, 1981.

OWEN E. WOODRUFF, JR.
United States Magistrate

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